GOVERNMENT OF INDIA
HEALTH AND FAMILY WELFARE
LOK SABHA

UNSTARRED QUESTION NO:3130
ANSWERED ON:23.03.2005
LAW ON ORGAN TRANSPLANTATION
Panda Shri Prabodh

Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

(a) whether the Government is considering to make law on organ transplantation;

(b) if so, the details thereof; and

(c) the name of countries where organ transplantation is legal?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH & FAMILY WELFARE (SMT. PANABAKA LAKSHMI)

(a)&(b): Government have already enacted the Transplantation of Human Organs Act, 1994 to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for matters connected therewith or incidental thereto. Recently, a Committee has been constituted by the Hon`ble High Court of Delhi (as per the judgement dated 6.9.2004 in W.P. No.813/2004) to review the provisions of the Transplantation of Human Organs Act, 1994 and the Transplantation of Human Organs Rules, 1995. The composition of the Committee and terms of reference are annexed. The recommendations of the said Committee are awaited.

(c): As per information available with the Government some of the countries where specific legal provision has been defined for organ Transplantation are:-

1. Latin America - Brazil, Chile, Columbia, Argentina, Cuba, etc.

2. Asia Pacific Region - China, Singapore, India, etc.

3. Middle East & Afro Arab Region - Egypt, Saudi Arabia, Algeria, Bahrain, Jordan, Kuwait, Lebanon, United Arab Emirates, Yemen, etc.

4. Africa & Indian Ocean Ireland - South Africa

5. Central & Eastern Europe - Russia, Romania, Poland, Hungary, etc.
6. Developed countries - United States of America, United Kingdom, Canada, France, Germany & Spain, Australia, etc.

ANNEXURE REFERRED IN REPLY TO PART (A) & (B) OF LOK SABHA UNSTARRED QUESTRION NO 3130 TO BE ANSWERED ON 23.3.2005

Composition of the Committee

The Composition of the Committee is as follows:-

1. Dr. S.Y. Quaraishi, Addl. Secretary & DG. National AIDS Control Organisation (Nominee of Secretary (Health) and Convenor)

2. Prof. S.N. Mehta, Head of Department, Surgery Department, AIIMS. (member)

3. Dr. Harsh Johri, Renal Surgeon, Sir Ganga Ram Hospital, Delhi (Member)

4. Secretary, Indian Medical Association, I.P. Estate, New Delhi - (Member)

5. Mr. Sanjay Jain, Advocate, Chamber No. 488, New Chambers Block, Delhi High Court, New Delhi- (Member)
6. Dr. V.K. Arora, Addl. DG - (Member Secretary)

TERMS OF REFERENCE OF THE COMMITTEE CONSTITUTED AS PER THE JUDGEMENT DATED SEPTEMBER 6TH 2004 IN W.P. NO. 813/2004 OF HIGH COURT OF DELHI TO REVIEW THE PROVISIONS OF THE TRANSPLANTATION OF HUMAN ORGANS ACT, 1994 AND THE TRANSPLANTATION OF HUMAN ORGANS RULES, 1995

1. Based on the data available on the transplantation of organs and the working of the Authorisation Committees the Committee to examine and make its recommendations on the composition of Authorisation Committees and changes, if any, required to ensure timely permissions.

2. Whether the jurisdiction of the Authorisation Committees should be enlarged by bringing within its ambit the process of certifying a `near relative` or the task be assigned to another designated authority?

3. Review the provisions of the Act and Rules based on the experience of transplantation of organs as carried out and the difficulties arising due to the bottleneeks faced in the said process. The Committee to examine in particular provisions of Section 9 and requirement of carrying out the tests prescribed in Rule 4, certificatin in Form 3 to review the definition of `near relative` and make its recommendations in the light of the observations made.

4. Examine and specify the organs for transplantation of which the tests prescribed in Rule 4(1)(c) to establish the factum of being `near relative` need not be carried out when other evidence is available.

5. Examine the feasibility of establishing and setting up Organ Procurement Organizations with data bank to facilitate the dissemination of information on availability of organs for transplantation to encourage organ donation especially from cadavers, cases of brain stem deaths and other deceased persons, who had authorized removal of organs upon demise.
6. Examine the feasibility of creation of a fund, the corpus to be provided partly come from the Union of India and partly by levying a fixed charge on the total bill of the hospital for transplantation and/or public donations, for providing social incentives to a donor.

7 Examine and recommend ways and means to give such incentives, including but not limited to help aid any preferred health care, recognition and honour to a donor in the community.

8. Examine the causes that lead to exploitation of poor and unaware persons in the process of organ donation and suggest methods to reduce, control and ultimately eradicate such malopractices. Recommend programmes for disscmination of correct information of ethical, legal and devising procedure concerning organ donation so that a donductive atmosophere is generated and disinformation n and misgivings and dispelled.

9. Any other matter relevant to the subject.